(C.A. 7, 1946) cert. denied 330 U.S. 813 (1947); *Bridgeman* v. *Ford, Bacon & Davis*, 161 F. 2d 962 (C.A. 8, 1947); *Rokey* v. *Day & Zimmerman*, 157 F. 2d 736 (C.A. 8, 1946); *McLaughlin* v. *Todd & Brown, Inc.*, 7 W.H. Cases 1014; 15 Labor Cases para. 64,606 (N.D. Ind. 1948); *Campbell* v. *Jones & Laughlin*, 70 F. Supp. 996 (W.D. Pa. 1947).)

(b) *Interruptions of sleep.* If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted. For enforcement purposes, the Divisons have adopted the rule that if the employee cannot get at least 5 hours' sleep during the scheduled period the entire time is working time. (See *Eustice* v. *Federal Cartridge Corp.*, 66 F. Supp. 55 (D. Minn. 1946).)

### § 785.23 Employees residing on employer's premises or working at home.

An employee who resides on his employer's premises on a permanent basis or for extended periods of time is not considered as working all the time he is on the premises. Ordinarily, he may engage in normal private pursuits and thus have enough time for eating, sleeping, entertaining, and other periods of complete freedom from all duties when he may leave the premises for purposes of his own. It is, of course, difficult to determine the exact hours worked under these circumstances and any reasonable agreement of the parties which takes into consideration all of the pertinent facts will be accepted. This rule would apply, for example, to the pumper of a stripper well who resides on the premises of his employer and also to a telephone operator who has the switchboard in her own home. (*Skelly Oil Co.* v. *Jackson*, 194 Okla. 183, 148 P. 2d 182 (Okla. Sup. Ct. 1944; *Thompson* v. *Loring Oil Co.*, 50 F. Supp. 213 (W.D. La. 1943).)

## PREPARATORY AND CONCLUDING ACTIVITIES

### § 785.24 Principles noted in Portal-to-Portal Bulletin.

In November, 1947, the Administrator issued the Portal-to-Portal Bulletin (part 790 of this chapter). In dealing with this subject, § 790.8 (b) and (c) of this chapter said:

> (b) The term ''principal activities'' includes all activities which are an integral part of a principal activity. Two examples of what is meant by an integral part of a principal activity are found in the report of the Judiciary Committee of the Senate on the Portal-to-Portal bill. They are the following:
>
> (1) In connection with the operation of a lathe, an employee will frequently, at the commencement of his workday, oil, grease, or clean his machine, or install a new cutting tool. Such activities are an integral part of the principal activity, and are included within such term.
>
> (2) In the case of a garment worker in a textile mill, who is required to report 30 minutes before other employees report to commence their principal activities, and who during such 30 minutes distributes clothing or parts of clothing at the workbenches of other employees and gets machines in readiness for operation by other employees, such activities are among the principal activities of such employee.
>
> Such preparatory activities, which the Administrator has always regarded as work and as compensable under the Fair Labor Standards Act, remain so under the Portal Act, regardless of contrary custom or contract.
>
> (c) Among the activities included as an integral part of a principal activity are those closely related activities which are indispensable to its performance. If an employee in a chemical plant, for example, cannot perform his principal activities without putting on certain clothes, changing clothes on the employer's premises at the beginning and end of the workday would be an integral part of the employee's principal activity. On the other hand, if changing clothes is merely a convenience to the employee and not directly related to his principal activities, it would be considered as a ''preliminary'' or ''postliminary'' activity rather than a principal part of the activity. However, activities such as checking in and out and waiting in line to do so would not ordinarily be regarded as integral parts of the principal activity or activities.

### § 785.25 Illustrative U.S. Supreme Court decisions.

These principles have guided the Administrator in the enforcement of the Act. Two cases decided by the U.S. Supreme Court further illustrate the types of activities which are considered an integral part of the employees' jobs. In one, employees changed their clothes and took showers in a battery plant where the manufacturing process

involved the extensive use of caustic and toxic materials. (*Steiner* v. *Mitchell*, 350 U.S. 247 (1956).) In another case, knifemen in a meatpacking plant sharpened their knives before and after their scheduled workday (*Mitchell* v. *King Packing Co.*, 350 U.S. 260 (1956)). In both cases the Supreme Court held that these activities are an integral and indispensable part of the employees' principal activities.

### § 785.26 Section 3(o) of the Fair Labor Standards Act.

Section 3(o) of the Act provides an exception to the general rule for employees under collective bargaining agreements. This section provides for the exclusion from hours worked of time spent by an employee in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee. During any week in which such clothes-changing or washing time was not so excluded, it must be counted as hours worked if the changing of clothes or washing is indispensable to the performance of the employee's work or is required by law or by the rules of the employer. The same would be true if the changing of clothes or washing was a preliminary or postliminary activity compensable by contract, custom, or practice as provided by section 4 of the Portal-to-Portal Act, and as discussed in §785.9 and part 790 of this chapter.

[30 FR 9912, Aug. 10, 1965]

## LECTURES, MEETINGS AND TRAINING PROGRAMS

### § 785.27 General.

Attendance at lectures, meetings, training programs and similar activities need not be counted as working time if the following four criteria are met:

(a) Attendance is outside of the employee's regular working hours;

(b) Attendance is in fact voluntary;

(c) The course, lecture, or meeting is not directly related to the employee's job; and

(d) The employee does not perform any productive work during such attendance.

### § 785.28 Involuntary attendance.

Attendance is not voluntary, of course, if it is required by the employer. It is not voluntary in fact if the employee is given to understand or led to believe that his present working conditions or the continuance of his employment would be adversely affected by nonattendance.

### § 785.29 Training directly related to employee's job.

The training is directly related to the employee's job if it is designed to make the employee handle his job more effectively as distinguished from training him for another job, or to a new or additional skill. For example, a stenographer who is given a course in stenography is engaged in an activity to make her a better stenographer. Time spent in such a course given by the employer or under his auspices is hours worked. However, if the stenographer takes a course in bookkeeping, it may not be directly related to her job. Thus, the time she spends voluntarily in taking such a bookkeeping course, outside of regular working hours, need not be counted as working time. Where a training course is instituted for the bona fide purpose of preparing for advancement through upgrading the employee to a higher skill, and is not intended to make the employee more efficient in his present job, the training is not considered directly related to the employee's job even though the course incidentally improves his skill in doing his regular work.

[30 FR 9912, Aug, 10, 1965]

### § 785.30 Independent training.

Of course, if an employee on his own initiative attends an independent school, college or independent trade school after hours, the time is not hours worked for his employer even if the courses are related to his job.